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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,169	09/26/2003	Adam Tartar Richardson	0-02-141.01	8100
7590	11/08/2004		EXAMINER	
Kevin D. McCarthy Roach Brown McCarthy & Gruber, P.C. 420 Main Street - 1620 Liberty Building Buffalo, NY 14202			BUI, THACH H	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/672,169	RICHARDSON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Thach H Bui	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 8 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,9,10 and 14 is/are rejected.
- 7) Claim(s) 2-5,7,11-13 and 15-20 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____ .                                   |

**DETAILED ACTION**

1. The preliminary admendment filed May 07, 2004 has been received and entered.

***Information Disclosure Statement***

2. Applicant's prior art citation filed May 07, 2004 has been received, considered and placed of record.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cabrera et al. (U.S. Patent No. 6,123,359).

Cabrera et al. teach a method of suppressing fire in a space (col. 12, lines 1-4) comprising a mean for generating a first fire suppressing gas mixture from at least one non-azide solid propellant chemical (abstract) (col. 3, lines 6-9). The fire suppressing gas mixture includes a first gas, and the first gas is Nitrogen and capable of being delivered at least the first gas into the space (col. 8, example II).

4. Claims 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kern et al. (U.S. Patent No. 5,038,866).

Kern et al. teach an apparatus for suppressing fire in a normally occupied enclosed space comprising a sensor for detecting a fire (14) (see Fig. 3), and at least one solid inert gas generator (Nitrogen, Aluminium –Oxide and etc.) (col. 5, lines 2-12), in response to receiving signal from the sensor, ignites to generate only a fire suppressing gas mixture for delivery into the enclosed space (see entire patent). The apparatus further includes an inert gas discharge diffuser (208) to direct the fire suppressing gas mixture into the enclosed space.

5. Claim 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Italiane et al. (U.S. Patent No. 6,612,243).

Italiane et al. teach a gas generator for generating and delivering a fire suppressing gas mixture to an enclosed space comprising a housing (32), at least one pre-packed solid propellant (28) (col. 4, lines 66-67) disposed within the housing, a pyrotechnic device for initiating ignition of the solid propellant to thereby generate only the fire suppressing gas mixture (64), and a discharge diffuser (36, 250) for directing the fire suppressing gas mixture within the enclosed space.

#### ***Allowable Subject Matter***

6. Claims 2-5, 7, 11-13, and 15-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 703-305-0063 and/or 571-272-4898. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 703-308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



T.B.  
11/01/2004